



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2018-0121; FRL-9990-44-Region 5]

Air Plan Approval; Ohio; Ohio Permit Rules Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to Ohio air permitting rules at Ohio Administrative Code (OAC) 3745-31 into the State Implementation Plan (SIP) under the Clean Air Act (CAA). These revisions represent minor changes to the air permitting rules the Ohio Environmental Protection Agency (OEPA) adopted on April 21, 2016, which became effective at the state level on May 1, 2016.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0121. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy

form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Sam Portanova, Environmental Engineer, at (312) 886-3189 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189, portanova.sam@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background.
- II. What Action is EPA Taking?
- III. Incorporation by Reference.
- IV. Statutory and Executive Order Reviews.

I. Background.

On January 2, 2018, OEPA submitted revisions to rules in OAC chapters 3745-31-01, 3745-31-03, 3745-31-05, 3745-31-06, 3745-31-11, 3745-31-13, and 3745-31-14 to EPA for approval into

the SIP. These revisions pertain to air permitting rules which update definitions, provisions for exemptions and permits-by-rule, criteria for permits-to-install and permits-to-install-and-operate, and attainment provisions. Ohio adopted revisions to these rules on April 21, 2016. In the January 2, 2018, submittal, OEPA requested that the following paragraphs be excluded from approval into the SIP: OAC 3745-31-01(I), (NN) (2) (b) and (c), (SSS) (1) (b), (CCCC) (2) (d) through (h), (QQQQ), (JJJJJ), and (BBBBBB); 3745-31-03(B) (1) (p) and (C) (2) (c) (iii); 3745-31-05(A) (3) (a) (ii) and (E); and 3745-31-13(H) (1) (c). On July 27, 2018, OEPA submitted a supplement to the January 2, 2018, SIP submittal to address requirements of Section 110(l) of the CAA.

On October 25, 2018 (83 FR 53832), EPA published a proposed approval of the rule revisions included in the January 2, 2018, submittal from OEPA. The specific details of OEPA's January 2, 2018, SIP submittal and the rationale for EPA's approval were discussed in the October 25, 2018 proposed approval and will not be restated here. EPA received no comments during the comment period of the proposed approval.

II. What Action is EPA Taking?

EPA is approving rule revisions to 3745-31-01, 3745-31-03, 3745-31-05, 3745-31-06, 3745-31-11, 3745-31-13, and 3745-31-14 that OEPA submitted on January 2, 2018, into the SIP. EPA finds

that the revisions are consistent with Federal requirements. As requested by OEPA, the following provisions are not included in this approval: OAC 3745-31-01(I), (NN)(2)(b) and (c), (SSS)(1)(b), (CCCC)(2)(d) through (h), (QQQQ), (JJJJJ), and (BBBBBB); 3745-31-03(B)(1)(p) and (C)(2)(c)(iii); 3745-31-05(A)(3)(a)(ii) and (E); and 3745-31-13(H)(1)(c).

III. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Ohio Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov, and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

¹ 62 FR 27968 (May 22, 1997).

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal

implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 25, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1870, the table in paragraph (c) is amended by removing the first entry for 3745-31-01 and revising the entries for the remaining 3745-31-01 and 3745-31-03, 3745-31-05, 3745-31-06, 3745-31-11, 3745-31-13, and 3745-31-14 under "Chapter 3745-31 Permit-to Install New Sources and Permit-to-Install and Operate Program" to read as follows:

§ 52.1870 Identification of plan.

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(c) * * *

EPA-APPROVED OHIO REGULATIONS

Ohio citation	Title/Subject	Ohio effective date	EPA Approval date	Notes
* * *	* * *	*	*	
Chapter 3745-31 Permit-to Install New Sources and Permit-to-Install and Operate Program				
3745-31-01	Definitions	5/1/2016	<u>[insert date of publication in the Federal Register]</u> , [Insert Federal Register citation]	Except for (I), (NN) (2) (b) and (c), (SSS) (1) (b), (CCCC) (2) (d) through (h), (QQQQ), (JJJJJ), and (BBBBB).
* * *	* * *	*	*	
3745-31-03	Exemptions and Permits-by-Rule	5/1/2016	<u>[insert date of publication in the Federal Register]</u> ,	Except for (B) (1) (p) and (C) (2) (c) (iii).

			[Insert Federal Register citation]	
* * * * *				
3745-31-05	Criteria for Decision by the Director	5/1/2016	[<u>insert date of publication in the Federal Register</u>], [Insert Federal Register citation]	Except for (A) (3) (a) (ii) and (E)
3745-31-06	Completeness Determinations, Processing Requirements, Public Participation, Public Notice and Issuance	5/1/2016	[<u>insert date of publication in the Federal Register</u>], [Insert Federal Register citation]	
* * * * *				
3745-31-11	Attainment Provisions - Ambient Air Increments, Ceilings and Classifications	5/1/2016	[<u>insert date of publication in the Federal Register</u>], [Insert Federal Register citation]	
* * * * *				
3745-31-13	Attainment Provisions - Review of Major Stationary Sources and Major Modifications, Stationary Source Applicability and Exemptions	5/1/2016	[<u>insert date of publication in the Federal Register</u>], [Insert Federal Register citation]	Except for (H) (1) (c) .
3745-31-14	Attainment Provisions - Pre-application Analysis	5/1/2016	[<u>insert date of publication in the Federal Register</u>], [Insert Federal Register citation]	
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